WHAT IS AN INJURY BY ACCIDENTAL MEANS?—What is an accident within the meaning of the phrase in accident insurance policies which limits recovery to those cases where the accident is effected "solely and exclusively by external, violent and accidental means"? The words external and violent add little, if anything, to the word accidental, since if an injury is caused by accidental means, it follows almost as a matter of course that such means were extreme and violent. 3 JOYCE INS. 2864, note; *Pickett* v. *Pac. Mut. Life Ins. Co.*, 144 Pa. St. 79. So that the question really is: what is an injury by accidental means?

Strictly speaking, a means is accidental only when disassociated from any human agency, but this extremely narrow view has never been followed or recognized in the law of accident insurance. 4 COOLEY INS. 3156. Webster defines accident as an event which takes place without one's foresight or expectation; chance; casualty: and many courts, following this popular meaning of the term, hold an injury to be sustained by accidental means, when the injury is sustained because of an unusual and unexpected result attending the performance of a usual act. *Williams* v. *U. S. Mut. Acc. Assn.*, 60 Hun. 580; *U. S. Mut. Acc. Assn.* v. *Barry*, 131 U. S. 100, affirming 23 Fed. 712; *Paul* v. *Travelers' Ins. Co.*, 112 N. Y. 472; *Richards* v. *Travelers Ins. Co.*, 89 Cal. 170; *Newman* v. *Ry. Off. & Emp. Acc. Assn.*, 15 Ind. App. 29; *Omberg* v. *U. S. Mut. Acc. Assn.*, 101 Ky. 303; *Providence Life Ins. & Inv. Co.* v. *Drummond*, 56 Neb. 235; *Atlanta Acc. Assn.* v. *Alexander*, 104 Ga. 709; *Harsfall* v. *Pac. Mut. Ins. Co.*, 32 Wash. 132.

The other view is found in the statement that although the result be unexpected, if nothing out of the ordinary occurs except the injury itself, such injury is not caused by accidental means. *Southard* v. *Ry., etc., Assur. Co.*, 34 Conn. 574; *Fidelity Co.* v. *Stacey*, 143 Fed. 271; *Lehman* v. *Gt. West. Acc. Assn.*, 155 Ia. 737; *Hastings* v. *Travelers' Ins. Co.*, 109 Fed. 257; *McCarthy* v. *Travelers' Ins. Assn.*, 8 Biss. 362; *Niskern* v. *United Bro. of Carpenters & Joiners of Am.*, 87 N. Y. Supp. 640; *Cobb* v. *Preferred Mut. Acc. Assn.*, 96 Ga. 818; *Feder* v. *Iowa State Traveling Men's Assn.*, 107 Ia. 538. The theory underlying this doctrine being that the acts of the insured were wholly natural and voluntary, so as to exclude the idea of accident. *Appel* v. *Aetna Life Ins. Co.*, 86 App. Div. 83, 83 N. Y. Supp. 238. These cases hold to the doctrine that in the act preceding the injury there must be something unforeseen, unexpected, or unusual, otherwise the injury is not caused by accidental means; the court in the *Lehman* case, supra, saying, "We have recognized the necessity of proximate connection between some accidental means and the injurious result complained of; and such proximate connection must appear. It is not sufficient that there be an accidental —that is, an unusual and unanticipated—result. The means must be accidental; that is, involuntary and unintended." The courts following this stricter doctrine criticize the previous doctrine on the ground that it is, in short, allowing the result to determine the cause, since the unlooked for result makes the event an accident and the injury one sustained by accidental means.

The English courts have had the same difficulty presented to them. *Clidero* v. *Scottish Acc. Ins. Co.*, 29 Scottish Law Reporter 303. In this case the court decided in favor of the stricter interpretation, saying, "The question is, in the words of the policy, whether the means by which the injury was caused were accidental means. The injury being accidental in a sense that it was not anticipated, and the means which led to the injury as accidental, are two quite different things. A person may do certain acts, the result of which acts may produce unforeseen consequences, and may produce what is commonly called accidental injury, but the means are exactly what the man intended to use and did use, and was prepared to use. The means were not accidental, but the result might be accidental. This does not fall within the description in the policy." This view is supported in *In re Scarr* [1905], 1 K. B. 387, 2 B. R. C. 358, and the English doctrine may now be regarded as settled in accordance with these two cases.

The most recent case on the subject, *New Amsterdam Casualty Co.* v. *Johnston* (Ohio 1915), 110 N. E. 475, follows this doctrine. In that case insured was accustomed to taking cold baths after exercising, and following a horseback ride took a cold plunge. Acute dilation of the heart resulted and he sues on his accident policy claiming that the injury is one effected solely and exclusively by external, violent and accidental means. The court held that the injury was not an accident within the meaning of the term, inasmuch as nothing occurred which the insured had not planned or anticipated, excepting the dilation and its consequences. The court in this case follows the reasoning of the English cases, saying that the contrary view is untenable, as it allows the result to determine the cause, and taking the stricter view, states that the injury cannot be regarded as caused by accidental means, as the injury resulted from ordinary acts, and was the natural consequence of those acts, and no unusual circumstance intervened.

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WHEN DO INJURIES "ARISE OUT OF" ONE'S EMPLOYMENT?—In the recent case of *De Filippis* v. *Falkenberg*, 155 N. Y. Supp. 761, the Appellate Division of the Supreme Court of New York was confronted with the question: are accidental injuries, arising from the sportive act of a co-worker, compensatable as injuries "arising out of the employment"?

The claimant was employed by the defendant as an operator of a buttonhole machine. Connected with the factory were two adjoining toilet rooms, with a partition between. Claimant employee entered one of the toilets at about two o'clock in the afternoon, which was during the regular working hours, and while there felt something strike her on the shoulder, whereupon she looked through an aperture in the partition, into the next room, and another employee thrust a pair of scissors through the aperture and into claimant's eye, destroying the sight. She brings this action under the WORKMEN'S COMPENSATION LAW, the material part of which is as follows: "Every employer subject to the provisions of this chapter shall pay or provide as required by this chapter compensation according to the schedules of this